

STATE OF MICHIGAN
COURT OF APPEALS

LARRY BARNETT,

Plaintiff-Appellee,

v

MARVIN BLACHURA and JUDITH
BLACHURA,

Defendants-Appellants.

UNPUBLISHED

June 16, 2005

No. 252642

Oakland Circuit Court

LC No. 96-525279-CK

Before: O’Connell, P.J., and Schuette and Borrello, JJ.

MEMORANDUM.

Defendants appeal by delayed leave granted from the trial court’s order setting aside the court’s earlier judgment confirming an arbitration award. We reverse and reinstate the judgment confirming the arbitration award.¹ This case is being decided without oral argument pursuant to MCR 7.214(E).

The trial court erred in determining that this case involved a dispute concerning title to real estate and that arbitration was therefore precluded by MCL 600.5005.

MCL 600.5005 states, “A submission to arbitration shall not be made respecting the claim of any person to any estate, in fee, or for life, in real estate,” except in certain situations not applicable here. Although this action arises from a purchase agreement involving real estate, plaintiff’s amended complaint did not assert a “claim . . . to any estate, in fee, or for life, in real estate,” *id.*, but rather only sought money damages for breach of contract. Further, the arbitrators did not decide any claim involving an interest in real estate. Therefore, this case is factually distinguishable from *McFerren v B&B Investment Group*, 233 Mich App 505, 513; 592 NW2d 782 (1999), which, as an action to quiet title, clearly involved a dispute concerning an interest in real estate. Because the case at bar does not involve title to land, the trial court erred in determining that arbitration was precluded by MCL 600.5005.

¹ This is the parties’ second appearance before this Court. In *Barnett v Blachura*, 242 Mich App 395; 618 NW2d 777 (2000), we reversed the trial court’s determination that it lacked subject-matter jurisdiction over this dispute because of bankruptcy proceedings.

Reversed and remanded for reinstatement of the judgment confirming the arbitration award. We do not retain jurisdiction.

/s/ Peter D. O'Connell

/s/ Bill Schuette

/s/ Stephen L. Borrello